



Legal Aid Bureau, Inc.

Charles H. Dorsey, Jr. Building
500 E. Lexington Street
Baltimore, Maryland 21202
(410) 951-7777
(410) 951-7818 FAX
www.mdlab.org

Warren S. Oliveri, Jr., President
Wilhelm H. Joseph, Jr., Executive Director
C. Shawn Boehringer, Chief Counsel
Gustava E. Taler, Chief Operating Officer
Cheryl Hystad, Director of Advocacy

Cheryl L. Hystad
410-951-7813
chystad@mdlaborg

August 15, 2011

Sandra F. Haines, Esq.
Reporter, Rules Committee
2011-D Commerce Park Drive
Annapolis, MD 21401

Re: Comments to 171st Report of Rules Committee – Category Six

Dear Ms. Haines:

This letter sets forth the comments of the Legal Aid Bureau, Inc., the Public Justice Center, the Maryland Consumer Rights Coalition, and Jane Santoni, Williams & Santoni, LLP, to the 171st Report of the Standing Committee on the Rules of Practice and Procedure proposing changes to the Maryland Rules (“Report”). We express our appreciation to the Rules Committee for the opportunity to be part of the working subgroup and the full committee meetings, and strongly support the adoption of Category Six of the Report, the proposed amendments to Rules 3-306, 3-308, and 3-509.

Legal Aid is a non-profit organization dedicated to providing high quality legal advocacy to protect and advance human rights for individuals, families and communities. Legal Aid provides free legal services to indigent Maryland residents from our 13 offices around the state. Our attorneys regularly appear in Maryland’s district, circuit, and appellate courts. The Public Justice Center, founded in 1985, is a not-for-profit civil rights and anti-poverty legal services organization with a longstanding commitment to protecting and advancing consumers’ rights. The Maryland Consumer Rights Coalition is a non-profit organization that advances and protects the interests of Maryland consumers through research, education and advocacy, and works for fairness and safety in the marketplace. Jane Santoni, Williams & Santoni, LLP, is an attorney in private practice who regularly represents consumers, including those sued by debt buyers, in Maryland courts.

Category Six of the Report addresses the growing problem with the flood of judgment by affidavit cases filed in Maryland District Courts by commercial debt buyers. Debt buyers purchase large quantities of debts, often for pennies on the dollar, with little documentation

August 15, 2011

Page 2

to support the validity of the debts. The proposed amendments are intended to provide transparency in the judicial process with regard to the complaints filed by debt buyers.

The undersigned assist, through direct representation and/or education, individuals who are sued by debt buyers. Defendants in these cases are often uncertain about what debt they are being sued for, whether the amount sued for is correct, and whether or not the suit is time barred. In some cases, the alleged debt has been paid, or it was not a debt owed by the defendant, or it was discharged in bankruptcy.

In nearly every instance, the debt buyer requests judgment by affidavit. The vast majority of these complaints do not contain documentation sufficient to comply with the current Rule 3-306. Specifically, the complaints often do not list the original creditor, the full account number, the terms of the alleged contract, the date of the last payment, the correct amount of the debt, or proof of assignment to the plaintiff.

The proposed changes to Rule 3-306 would require debt purchasers to provide proof of (1) the existence of the debt; (2) the identification of the original creditor; (3) ownership of the debt; (4) the nature of the debt; and (5) the charge off date and balance. These are common sense but important requirements. As stated above, one of the problems with the current state of affidavit judgment complaints is that defendants often have no idea who is suing them. Under current rules, debt buyers are not required to identify the original creditor, and many do not. Often times, debt buyers do not attach any supporting documentation to the lawsuit, despite the requirement to submit proof that the plaintiff is entitled to judgment as a matter of law.

One of the most important amendments to Rule 3-306 requires debt buyers to provide a listing of the chain of ownership of the debt, and copies of the bill of sale or other documentation for each transfer of ownership that includes a reference to the defendant's account. Requiring this specific documentation for affidavit judgment complaints will not only facilitate the ability of courts to determine whether or not the documentation provided is sufficient to establish that the plaintiff is the owner of the debt, but it will also help protect a defendant from being sued multiple times on the same debt, an all-too-frequent occurrence. In any other context, whether it be a real estate transaction or otherwise, it is unquestioned that a party claiming ownership must prove the chain of title with documentation of each transfer. Clearly, it is time for the debt buying industry to be subject to the same standard.

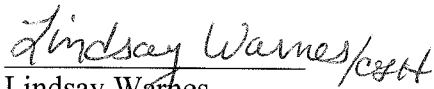
Adopting the proposed amendments would assist defendants, the vast majority of whom are unrepresented, by clarifying the identity of the plaintiff, the nature of the underlying debt, as well as the chain of ownership. This information will provide defendants with a better opportunity to recognize any errors and defend the suit. In addition, the proposed rules changes will help to instill confidence in the judicial system by providing courts with the documentation they need to ensure that judgments are based on legitimate claims.

August 15, 2011

Page 3

The undersigned respectfully urge the Court of Appeals to adopt these proposed amendments in order to protect both Maryland consumers and the judicial system from improperly filed affidavit judgment complaints.

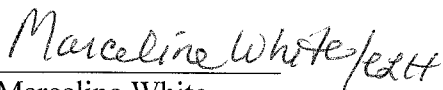
Sincerely,



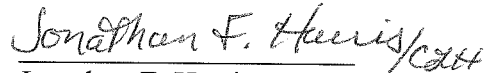
Lindsay Warnes
Staff Attorney
Legal Aid Bureau, Inc.
301-698-2636
lwarnes@mdlab.org



Cheryl Hystad
Director of Advocacy
Legal Aid Bureau, Inc.
500 East Lexington Street
Baltimore, MD 21202
410-951-7813
chystad@mdlab.org



Marceline White
Executive Director
Maryland Consumer Rights Coalition
1209 North Calvert
Baltimore, MD 21201
410-624-8980
marceline@marylandconsumers.org



Jonathan F. Harris
Skadden Fellow/Staff Attorney
Public Justice Center
410-625-9409
harrisj@publicjustice.org



Debra Gardner
Legal Director
Public Justice Center
One North Charles Street, Suite 200
Baltimore, MD 21201
410-625-9409
gardnerd@publicjustice.org



Jane Santoni
Williams & Santoni LLP
401 Washington Avenue, Ste. 200
Towson, MD 21204
410-938-8666
jane@williams-santonilaw.com

cc: Cathy Cox